

**YADKIN COUNTY BOARD OF COMMISSIONERS**  
**REGULAR MINUTES**  
**April 21, 2008**

The Yadkin County Board of Commissioners met in Regular Session on Monday, April 21, 2008, in the Yadkin County Human Services Building (Commissioners' Meeting Room), 217 East Willow Street, Yadkinville, NC.

**Present were:**

Chair Kim Clark Phillips  
Vice Chair Joel Cornelius  
Commissioner Tommy Garner  
Commissioner Chad Wagoner  
Commissioner Brady Wooten

**Staff present:** County Manager, Eric Williams; County Attorney, James Graham; and Clerk to the Board, Gina Brown.

**CALL TO ORDER** by Chair Phillips at 7:00pm

**INVOCATION** led by James Graham. Chair Phillips asked Mr. Graham to also remember a young child that had died at West Yadkin Elementary and a pedestrian that had been struck by a car.

**PLEDGE OF ALLEGIANCE** led by Chris Price and Jeremy Roberts of Yadkinville Elementary. Both boys are seventh graders and members of the Honor Society. Mr. Price and Mr. Roberts proclaimed to be respectful and responsible. The students were accompanied by the Yadkinville Elementary School Principal, Dr. James Sheek.

Chair Phillips issued a welcome to Andy Matthews, returning to The Yadkin Ripple as of today.

**ADJUSTMENTS TO/ADOPTION OF THE AGENDA**

County Manager Williams would like to report additional information on the Secondary Road Improvement Plan under Manager Reports on the agenda. Commissioner Cornelius requested a Consent Agenda for the budget amendments to be reviewed at today's meeting. Commissioner Wooten had concerns with one or more of the amendments and would not agree to a Consent Agenda.

**Vice Chair Cornelius made a motion to approve the agenda with noted adjustment requested by Manager Williams. Commissioner Garner second.**  
**Vote: 5/0**

## **PUBLIC COMMENTS**

David Pardue of Styers Mill Road addressed the Board on the following issues:

- (1) Mr. Pardue felt that the recently approved noise ordinance should be readdressed as a 300' restriction does not meet the need. Mr. Pardue has a neighbor over ½ mile away from his property but the noise from his home shooting range becomes unbearable after time. The Noise Ordinance should protect all people from nuisances from their neighbors.
- (2) Mr. Pardue did not agree with the Solid Waste Household Fee stating that he is a single man with little trash and thinks that the per bag fee was more fair.
- (3) Mr. Pardue did not agree with the 2007/2008 tax increase. Mr. Pardue stated that change cannot happen overnight and things cannot be done all at one time.
- (4) Mr. Pardue stated his opposition to the jail being placed out of the downtown area. Mr. Pardue stated that a \$400,000 savings on land was incidental compared to the millions of dollars to be spent.
- (5) Mr. Pardue expressed his overall dissatisfaction with the current Board and stated that he and hundreds of others would not vote this same Board for another term.

Diane Doub of East Bend addressed the Board regarding the 287 (g) Program. Ms. Doub asked for clarifications of the program. Board members offered that Yadkin County was participating in the 287 (g) Program with certain limitations due to the unavailability of designated cell space. Ms. Doub stated she was very pleased that this program had been implemented.

## **APPROVAL OF MINUTES**

Commissioner Wooten felt that the Closed Session Minutes of 4/7/08 were incomplete. Chair Phillips suggested that Commissioner Wooten speak directly with Manager Williams regarding any changes or additions. The Closed Session Minutes of 4/7/08 will be presented for approval at the next regular meeting.

Minutes of the Regular Meeting on 4/7/08 were not available until after the original agenda packet had been distributed. Commissioner Garner had not had the opportunity to review these minutes. Chair Phillips remarked that review of the 4/7/08 Regular Meeting Minutes would be postponed until the next regular meeting.

Chair Phillips requested the following adjustments to the 3/31/08 Minutes of Joint Meeting with the Yadkin County Board of Education:

- (1) Address Hazel Brown as "Dr." Hazel Brown
- (2) "Other interested parties" should include various members, coaches, and parents of the Forbush Hunter Safety Team.

**Commissioner Wooten made a motion to approve the March 31, 2008 Minutes of Joint Meeting with the Yadkin County Board of Education with noted adjustments. Commissioner Garner second.**

**Vote: 5/0**

## **PUBLIC HEARING**

Planning and Development Director, Kim Bates reviewed the Staff Report for a proposed corrective action rezoning of 12.3 acres off of Howell School Road. The property is currently zoned CB. The Planning Board recommends correcting the zoning to RA as this property is wooded, mountainous terrain and not suited for commercial business.

Commissioner Wooten commented that the property owner, Dexter Rose, was present earlier, and stated that he had not been contacted on this matter. Commissioner Wooten asked Director Bates to address this. Director Bates felt that someone from his staff had contacted a household member regarding this portion of the Dexter Rose property. Commissioner Wooten added that Mr. Rose had stated he was not opposed to the rezoning.

**Commissioner Wooten requested to abstain from the vote as he has a financial interest in this property. Attorney Graham agreed that if there was a financial interest, recusal is appropriate for Commissioner Wooten.**

The Public Hearing was opened at 7:24pm. There were no speakers on this issue. The Public Hearing closed at 7:24pm.

**Vice Chair Cornelius made a motion to approve the corrective rezoning of 12.3 acres off of Howell School Road from CB to RA. Commissioner Wagoner second. Chair Phillips read the Statement of Zoning Consistency. Vice Chair Cornelius adjusted his motion to include the Statement of Zoning Consistency. Commissioner Wagoner second the adjustment.**  
**Vote: 4/0 (Recusal for Commissioner Wooten in this matter)**

**[The Statement of Zoning Consistency for Rezoning of 12.3 acres off of Howell School Road is attached as Addendum A]**

Planning Director Bates requested the setting of a Public Hearing for each of the following:

- (4) Corrective rezoning of 265.06 acres off of Farmington Road from MI-2 to RA
- (4) Proposed Text Amendment for Article VII, Section 70

**Commissioner Wagoner made a motion to set a Public Hearing for Corrective Rezoning of 265.06 acres off of Farmington Road and a Public Hearing for the Proposed Text Amendment For Article VII, Section 70 of the Zoning Ordinance for Monday, May 19, 2008 during the regular meeting of the Board. Commissioner Wooten second.**  
**Vote: 5/0**

Chair Phillips asked Director Bates to address the recent discussions regarding 10 acre vs. 5 acre exemptions for subdivisions. Various counties have requested legislative exemption from the General Assembly regarding the acreage exemption in subdivisions. The Yadkin County Planning Board has briefly reviewed this matter, but no recommendations have been made to this point. The Planning Board will continue to discuss this matter.

## **BOARD APPOINTMENTS**

There were no requests for Board appointments at today's meeting.

## **BOARD REPORTS/REQUESTS**

A) Utilities Committee – Chair Phillips had the following remarks:

- (1) Arcadis Engineer, Randy Darden has long reported the concerns with the Jonesville Water Plant.
- (2) The biggest concern for the Committee is what plans can be made to insure water for Jonesville.
- (3) The Town of Jonesville will review their expenditures and possible costs.
- (4) The Committee is determined to retain water rights for Yadkin County.
- (5) The Elkin Water Plant is only about 6 years newer than the Jonesville Plant.
- (6) Randy Darden will be seeking information in writing regarding the amount of gallons that can be drained from the river in one area from different sources.
- (7) The Committee will meet again on May 7 at the Jonesville Town Hall. A meeting of both the Board of Commissioners and the Jonesville Town Board will be scheduled after this next meeting.

Commissioner Wooten added that the meeting had been very productive and offered cooperation between all parties. All parties indicated a desire to move forward for the good of Jonesville and the good of Yadkin County.

Gene Pardue, Jonesville Town Board Member and member of the Utilities Committee, was present for today's meeting. Mr. Pardue commented that the recent meeting had been very productive on both sides.

County Manager Williams offered that there remain 2 outstanding grant applications to the Rural Center, 1 for each entity, to address the Jonesville water issues. The grant maximum is \$500,000 each with a \$500,000 match. Notification should be received in June and based on projections; Yadkin County has a chance of award on the first round.

Commissioner Wagoner thanked Mr. Pardue for appearing at today's meeting and stated his appreciation for the representation of the Town of Jonesville at the County Board of Commissioners meeting.

B) Tap Incentive for West Yadkin Waterline

Only a brief discussion took place.

**Vice Chair Cornelius made a motion to extend the Tap Incentive Deadline to August 15, 2008, to waive the county portion of the connection fee for businesses along the route, and to issue refunds to any businesses that have tapped on without the benefit of incentive. Commissioner Wagoner second. Vote: 5/0**

County Manager Williams will coordinate the mailing of letters to all households and businesses along the West Yadkin Waterline Extension. Yadkin Ripple representative, Andy Matthews, who was present for today's meeting, agreed to publicize the incentive.

(C) Water Project Updates - provided by Arcadis Engineer, Randy Darden as follows:

- (1) The pump station has been delivered and will likely be installed next week.
- (2) The \$2.3 million loan to DENR was submitted last week with an interest rate of 2.035%.
- (3) There were some minor concerns from DOT regarding Highway 21. Those issues are being addressed and corrected.
- (4) The I-77/421 Interchange project is awaiting final approval from DENR.
- (5) There has been a temporary set-back in the Hoots Road Sewer Project. DOT is not allowing lines to be added to the bridge at this time. Arcadis engineers will again review crossing the creek, but hopefully in a different path. Mr. Darden stated the Board could expect a change order on this matter at a later time.
- (6) The Courtney/Huntsville Waterline Extension is proceeding. There had been questions regarding extending the lines to Courtney Baptist Church. Mr. Darden provided a cost estimate for these additional lines.
- (7) The 404 Permit for the 5D Project has not yet been approved. The next step is to send a letter from the Chairman of the District Soil and Water Board.

And finally, Mr. Darden requested an additional \$10,000 for each of the recent contracts with Arcadis: 1 – acting as the contracting agent on the 5D Project and 2 – completing the application for funding to DENR. Mr. Darden provided data to support these additional costs.

**Commissioner Wooten made a motion to approve the additional \$20,000 for 2 current contracts with Arcadis regarding 5D and DENR applications. Commissioner Wagoner second. Vote: 5/0**

**[Arcadis Documents are attached as Addendum B]**

Commissioner Wooten questioned the completion of the extension from West Yadkin to Lydall. Mr. Darden explained that the lines are in ground and ready once Lydall has made all necessary connections. Mr. Darden anticipates that the lines will be open by the end of summer.

## **BOARD ACTION**

Budget Amendments: The Board reviewed each of the following individually:

1-Non-departmental: Lawsuit Settlement

**This action was postponed until additional information could be provided by the Sheriff's Office or Finance.**

2-Jail: Professional Medical Services to Hoots Hospital

**Vice Chair Cornelius made a motion to approve. Commissioner Garner second.  
Vote: 4/1 (Wooten against)**

3-Sheriff: Law Enforcement Grant – Equipment

**Vice Chair Cornelius made a motion to approve. Commissioner Wooten second.  
Vote: 5/0**

4-Sheriff: American Red Cross Grant

**Commissioner Wooten made a motion to approve. Vice Chair Cornelius second.  
Vote: 5/0**

5-Jail: Contracted Services

**Commissioner Wooten made a motion to approve. Commissioner Garner second.  
Vote: 5/0**

6-Wireless: E-911 Fund

**Commissioner Wooten made a motion to approve. Commissioner Wagoner second.  
Vote: 5/0**

7-Emergency Services/Communications: Emergency Medical Dispatch Grant

**Commissioner Wooten made a motion to approve. Commissioner Garner second.  
Vote: 5/0**

8-Information Services: General Fund

**Commissioner Wooten made a motion to approve. Commissioner Garner second.  
Vote: 5/0**

**[Budget Amendments 2-8 are attached as Addendum C]**

RESOLUTION FOR REVIEW OFFICER - Tax Administrator, Phyllis Adams presented the RESOLUTION FOR REVIEW OFFICER authorizing the establishment of Joseph Sloop and Mr. Sloop's assistant, Hannah Johnson as Review Officers for plats. Administrator Adams noted that no additional burden will be placed on the property owner.

**Vice Chair Cornelius made a motion to approve the RESOLUTION FOR REVIEW OFFICER. Commissioner Garner second.  
Vote: 5/0**

**[RESOLUTION FOR REVIEW OFFICER  
is attached as Addendum D]**

Middle Schools Project Budget Ordinance – County Manager Williams discovered an issue with the ordinance to be presented today and asked the Board to postpone review of the Ordinance until the next regular meeting. The Board agreed.

**MANAGER REPORTS/COMMENTS**

**County Manager, Eric Williams**, presented the following to the Board:

- (A) Notice for bids on the Restroom/Concession Stand Project at the County Park has been placed. Bids will be received through May 16.
- (B) County Manager Williams provided a report from eCivis indicating the amount of activity on the website since the contract began. Manager Williams reiterated that the eCivis project may not yield results right away, but will provide more success over a long term.
- (C) County Manager Williams has recently met with Wayne Dixon, Clerk of Court; Gary Hayes, Inspector; Eddie Weatherman, Fire Marshal; and David Posey, Public Building Maintenance regarding minor structural and safety issues at the Courthouse. There may be a forthcoming budget amendment or resolution on this issue.
- (D) County Manager Williams briefly touched on the recent Mercer Report concerning Crossroads and other LMEs across the state. Secretary, Dempsey Benton is calling for a voluntary consolidation of LMEs. Commissioner Wagoner added that Crossroads is an excellent position to assist other LMEs in this process based on their rating from the Mercer Report.
- (E) County Manager Williams reported a typing error in the Secondary Road Improvement Plan that had been submitted at the last meeting. According to DOT personnel, the Dinkins Bottom Road improvement fund is for \$650,000. This was a simple typing error and does not require any action.

**CALENDAR NOTES**

Manager Williams reviewed the calendar notes pointing out the Calendar of Events from the Chamber of Commerce and the 4<sup>th</sup> Annual Community Prayer Breakfast at the YMCA on 5/1/08.

Chair Phillips reported a community cook-out and cruise-in at the Deep Creek Community Center on Saturday, May 31 from 11:00am to 7:00pm to raise money for the Breast Cancer Research Foundation.

Commissioner Wagoner acknowledged that there were several candidates for the upcoming election in the audience. Commissioner Wagoner asked each candidate to stand and introduce themselves and state what seat they are seeking.

Present were:

Kevin Austin – candidate for County Commissioner

Kevin Thomas – candidate for County Commissioner

David Moxley – candidate for County Commissioner

Joel Cornelius – seeking reelection for County Commissioner

Kim Clark Phillips – seeking reelection for County Commissioner

Brady Wooten – seeking reelection for County Commissioner

*Chair Phillips called for a recess at 8:30pm. Meeting resumed at 8:45pm.*

During the break, Communications Director, David Matthews had the opportunity to speak with Major Widener concerning the Budget Amendment for the Lawsuit Settlement. Finance Director, Sheron Church, instructed the Major that the funds must first be removed from the fund balance. After a brief discussion, the Board was prepared to act on this matter.

Appropriated Fund Balance: Non-departmental General Fund – Lawsuit Settlement  
**Commissioner Garner made a motion to approve the budget amendment of \$10,000 from the fund balance regarding the lawsuit settlement for the Sheriff's Office. Vice Chair Cornelius second.**  
**Vote: 4/1 (Wooten against)**

**[Budget Amendment regarding the Lawsuit Settlement for the Sheriff's Office is attached as Addendum E]**

## **COMMISSIONER COMMENTS**

Commissioner Wagoner had the following remarks:

(1) Commissioner Wagoner reported his recent attendance at the Crossroads Board retreat. There was additional discussion of the Mercer Report at that retreat. Commissioner Wagoner reiterated that Crossroads Behavioral Healthcare was 1 of only 2 LMEs in the State of North Carolina to score a 1 in all three report categories, along with the Charlotte-Mecklenberg LME.

(2) Commissioner Wagoner quoted Mark Botts, an Attorney with the School of Government, stating "an ethical concept of good governance is that each member [of the Board] owes loyalty to the decision of the body." Commissioner Wagoner interpreted that statement to mean that the actions performed by a Board is of the body elect and not the individual elect.



Commissioner Wooten had the following for discussion:

(1) Solid Waste – After being challenged by Chair Phillips to consult the School of Government regarding the Solid Waste Household Fee, Commissioner Wooten reported that he had been in contact with the SOG and discovered that the county's current operation of the Household Fee is illegal because of the discount program for seniors. Commissioner Wooten stated that there is a mechanism within the law to accomplish a senior citizen discount, but it involves an application process. Commissioner Wooten continued that he had been assigned to the Solid Waste Committee in December 2006. At that time, the operation was operating "in the red". The Committee was to revue the operation and determine possible solutions to the revenue issues. The 2007/2008 County Budget included the Solid Waste Household Fee without recommendation or input from the Committee. Increased tipping fees previously implemented by the Committee would have increased revenue by \$136,000 over a 12 month period according to financial data. Commissioner Wooten remarked that the County had been accused of "studying things to death", but feels that the County did not do adequate research in this matter.

**Commissioner Wooten made a motion to eliminate the Solid Waste Household Fee and directed County Manager Williams to take steps to refund or credit all households that have paid the fee since July 2007. Motion died for a lack of a second.**

Commissioner Wagoner asked Commissioner Wooten if he had a suggestion to recover the shortfall of revenue if the Solid Waste Fee was eliminated. Commissioner Wooten declined to offer a solution as he was opposed to the fee from the beginning. Commissioner Wooten commented that citizens of Yadkin County are angry about the fee and this could be a potential lawsuit as well.

Chair Phillips commented that of the current Board members, she and Commissioner Wooten had served the longest. Chair Phillips recalled Commissioner Wooten suggesting a \$57.00 Solid Waste Fee in a previous budget year. Commissioner Wooten stated that he suggested reviewing the possibility of a solid waste fee.

Commissioner Garner commented that the Solid Waste Fee had been Commissioner Wooten's idea in previous discussions. Commissioner Garner added that to prevent the program from returning to revenue losses, Commissioner Wooten should develop a better idea.

It was the consensus of the Board that Attorney Graham research the legality of the program and report back to the Board for consideration prior to next year's budget.

(2) Jail Construction – Commissioner Wooten provided data regarding cost comparisons of the potential downtown jail site versus the Hoots Road site. Commissioner Wooten stated that the data comes from various sources, including earlier Moseley reports. Commissioner Wagoner expressed appreciation for this documentation. Commissioner Wagoner remarked that he will review this data and will certainly comment once he had been able to digest. At this point, Commissioner Wagoner's only comment concerning this data is item #14 regarding property cost. Commissioner Wagoner stated that there are no

costs associated with the purchase of the Hoots Road property as the county already owns it. Commissioner Wooten answered that the Hoots Road property is an investment that continues to increase in value.

Commissioner Garner questioned the line item regarding the generator. Commissioner Garner remarked that the generator at the old jail will be used for the new jail and should not be considered in the financial comparisons.

**[Commissioner Wooten's Financial Comparison of Jail Costs  
is attached as Addendum F]**

(3) Questions for Attorney Graham Regarding Jail Lawsuit – Commissioner Wooten remarked that he had requested Attorney Mike Phillips attend today's meeting to answer questions regarding the lawsuit. Mr. Phillips was unable to attend and was unable to send another associate from the practice. Mr. Phillips, however, had been willing to meet with Commissioner Wooten at a later point. Commissioner Wooten felt that he was only 1 of a 5 member commission and believed that information should be shared with all 5 equally. In the absence of Attorney Phillips, Commissioner Wagoner directed his questions to County Attorney Graham. Commissioner Wooten had several questions regarding the timeline of this lawsuit. Attorney Graham indicated that there is no prediction for the amount of time this lawsuit could take to be heard or resolved. Civil Superior Court is only held 4 times per year in Yadkin County. The court docket and the judge's time and schedule are also a factor. Attorney Graham projected that the lawsuit, including any possible appeals, could take up to 1 ½ years to finalize. Commissioner Wooten asked Attorney Graham to provide an ironclad answer as to whether the County would win this case. Attorney Graham, of course, stated that he could not respond to that question. Commissioner Wooten concluded his comments stating that it would be most wise to postpone the construction of the jail until this lawsuit is settled.

Commissioner Garner had no additional comments at this time.

Vice Chair Cornelius had the following for discussion:

Commissioner Cornelius presented a press release written by Commissioner Wooten that he had printed from [keepjaildowntown.com](http://keepjaildowntown.com). Commissioner Cornelius asked Commissioner Wooten to confirm that he had authored this press release. Commissioner Wooten remarked that he had written the press release and had sent it to all local newspapers and television stations. Commissioner Wooten could not say, however, how the press release was posted on the website or if the press release was altered in anyway from his original writing. Commissioner Cornelius noted the following:

(1) In the 3<sup>rd</sup> paragraph of the release, Commissioner Wooten wrote that he would not allow Chair Phillips and an un-elected County Manager to make decisions on the jail or any other project that effect Yadkin citizens. Vice Chair Cornelius countered that his motion was simply to appoint Chair Phillips as a liaison, or contact person, on the lawsuit. It did not in any way, exclude other Board members, including Commissioner Wooten, from discussions or decision-making.

(2) In the 2<sup>nd</sup> paragraph of the release, Commissioner Wooten commented that Attorney Mike Phillips had been selected to represent the County in the lawsuit and had been invited to attend the Commissioner's meeting without a vote. Vice Chair Cornelius contended that Commissioner Wooten was well aware that Mr. Phillips had been recommended by Attorney Graham and that the consensus of the Board was to retain Mr. Phillips on the matter of the lawsuit.

(3) In the 4<sup>th</sup> paragraph of the release, Commissioner Wooten stated that the Mayor and the Board of the Town of Yadkinville voted unanimously to keep the jail downtown and pay any additional costs for construction. Vice Chair Cornelius noted that the Town of Yadkinville had agreed to fund the wastewater concern only as this was an issue the Town had to resolve regardless of the jail being downtown. Commissioner Wooten noted that the wording on this website printing was not his wording and must have been altered when posted.

(4) In the 5<sup>th</sup> paragraph of the release, Commissioner Wooten had commented regarding the "vote" to remove prayer from the meetings. Vice Chair Cornelius pointed out that there had been no "vote". The Board agreed to remove sectarian prayer from the meeting upon council from County Attorney Graham. There continues to be an invocation at the meetings and that every citizen of this County is welcome to pray in any capacity, with due respect, during public comments. In the same paragraph, there are references to the Board invoking a tax increase. Vice Chair Cornelius reminded Commissioner Wooten that in 2005, he and Commissioners Sneed and Casstevens approved a 14% tax increase.

Commissioner Cornelius summarized that the issue is Commissioner Wooten's false statements about this Board. Vice Chair Cornelius remarked that Commissioner Wooten has an aversion for the truth and misleads the public by making statements with no factual basis.

Chair Phillips had the following remarks:

The Board's decision on prayer supported the Constitution of the United States and the First Amendment Rights of Freedom of Religion. It had been a difficult decision for the Board, but ultimately protects the rights of all citizens to continue to pray in their manner of choosing. Had the Board agreed to continue with sectarian prayer, an opportunity to dictate religion wide-spread would have been established. The Constitution and the United States was founded on the idea that people had the right to choose. Jesus never forced his beliefs on people and asked that people choose for themselves.

**Commissioner Garner made a motion to adjourn. Vice Chair Cornelius second.  
Vote: 5/0**

Meeting adjourned at 9:41pm.

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Prepared and Approved by Clerk to the Board